

FILED

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Attorney for Plaintiff,
DIANA BATTIS

2012 SEP 18 PM 3:41

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF
LOS ANGELES

BY _____

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

DIANA BATTIS,

Plaintiff,

v.

MANDARICH LAW GROUP LLP,

Defendant.

Case

CV 12-8046 - PSW

COMPLAINT AND DEMAND FOR
JURY TRIAL

(Unlawful Debt Collection Practices)

VERIFIED COMPLAINT

DIANA BATTIS (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against MANDARICH LAW GROUP LLP (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692, *et seq.*
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act (RFDCPA), Cal. Civ. Code § 1788, *et seq.*

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court

1 without regard to the amount in controversy,” and 28 U.S.C. § 1367 grants this court
2 supplemental jurisdiction over the state claims contained therein.

3 4. Defendant conducts business and is principally located in the State of California, and
4 therefore, personal jurisdiction is established.

5 5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

6 **PARTIES**

7 6. Plaintiff is a natural person residing in Pomona, Los Angeles County, California.

8 7. Plaintiff is a consumer as that term is defined by 15 U.S.C. § 1692a(3), and according to
9 Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. §
10 1692a(5) and Cal. Civ. Code § 1788.2(h).

11 8. Defendant is a debt collector as that term is defined by 15 U.S.C. § 1692a(6) and Cal.
12 Civ. Code § 1788.2(c), and sought to collect a consumer debt from Plaintiff.

13 9. Defendant is a law firm located in Woodland Hills, Ohio.

14 **FACTUAL ALLEGATIONS**

15 10. Defendant is attempting to collect an alleged debt from Plaintiff on behalf of Citibank
16 for a personal credit card.

17 11. The alleged debt arises from purchases and transactions which were for personal, family
18 and/or household purposes.

19 12. Defendant’s collection methods include, but are not limited to, placing telephone calls to
20 Plaintiff.

21 13. Defendant’s calls are placed to xxx-xxx-3731, which is Plaintiff’s home telephone.

22 14. When Plaintiff is unable to answer Defendant’s telephone calls, Defendant leaves a voice
23 messages for Plaintiff.

24 15. In or around July 2012, Defendant left a voice message for Plaintiff on her answering
25 machine. (See voicemail transcript, attached hereto as Exhibit A).

1 16. Defendant demanded Plaintiff return its call at 877-414-0130. (See Exhibit A).

2 17. Importantly, Defendant failed to inform Plaintiff that it is a debt collector or that it is
3 attempting to collect a debt. (See Exhibit A).

4 18. Thus, the information provided in Defendant's message did not allow Plaintiff to
5 independently ascertain the purpose for the call.

6
7 **COUNT I**
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

8 19. Defendant violated the FDCPA based on the following:

9 a. Defendant violated § 1692e(10) of the FDCPA by using deceptive means to
10 collect or attempt to collect a debt.

11 b. Defendant violated § 1692e(11) of the FDCPA by failing to disclose that the
12 message, a communication, was from a debt collector.

13 WHEREFORE, Plaintiff, DIANA BATTS, respectfully requests judgment be entered
14 against Defendant, MANDARICH LAW GROUP LLP, for the following:

15 20. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15
16 U.S.C. § 1692k.

17 21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
18 15 U.S.C. § 1692k.

19 22. Any other relief that this Honorable Court deems appropriate.

20 **COUNT II**
21 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**
22 **PRACTICES ACT**

23 23. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as
24 the allegations in Count II of Plaintiff's Complaint.

25 24. Defendant violated the RFDCPA based on the following:

a. Defendant violated the § 1788.17 of the RFDCPA by continuously failing to

1 comply with the statutory regulations contained within the FDCPA, 15 U.S.C. §
2 1692, *et seq.* to wit: Section 1692e.

3 WHEREFORE, Plaintiff, DIANA BATTIS, respectfully requests judgment be entered
4 against Defendant, MANDARICH LAW GROUP LLP, for the following:

5 25. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt Collection
6 Practices Act, Cal. Civ. Code §1788.30(b).

7 26. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
8 Practices Act, Cal. Civ. Code § 1788.30(c).

9 27. Any other relief that this Honorable Court deems appropriate.

10
11 DATED: September 13, 2012

RESPECTFULLY SUBMITTED,

12 KROHN & MOSS, LTD.

13
14 By: 

15 Douglas Baek
16 Attorney for Plaintiff
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EXHIBIT A

Hello, this messages is for Diana Batts. This is Mandarich Law Group. Please return this call at 877-414-0130. Thank you.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DIANA BATTS <div style="text-align: center;">v.</div> MANDARICH LAW GROUP LLP	PLAINTIFF(S) DEFENDANT(S)	CASE NUMBER <div style="font-size: 1.5em; font-weight: bold;">CV 12-8046 - PSW</div> <div style="text-align: center; font-weight: bold;">SUMMONS</div>
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TO: DEFENDANT(S): MANDARICH LAW GROUP LLP

A lawsuit has been filed against you.

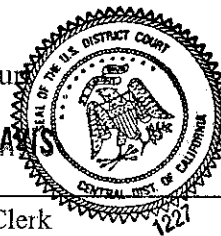
Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Douglas Baek, Esq., whose address is Krohn & Moss, Ltd.; 10474 Santa Monica Blvd., Suite 401; Los Angeles, CA 90025. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: SEP 18 2012

Clerk, U.S. District Court

MARILYN DAVIS

By: _____
Deputy Clerk



(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)]

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) DIANA BATTS	DEFENDANTS MANDARICH LAW GROUP LLP
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Krohn & Moss, Ltd.; Douglas Baek, Esq. 10474 Santa Monica Blvd., Suite 401; Los Angeles, CA 90025 (323) 988-2400	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PIF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PIF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PIF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PIF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PIF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PIF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only)
☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify): _____
☐ 6 Multi-District Litigation
☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint)
CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 15 USC 1692 et seq.; Unlawful and Abusive Debt Collection Practices

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV12-8046

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) ☐ A Arise from the same or closely related transactions, happenings, or events; or

☐ B Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C For other reasons would entail substantial duplication of labor if heard by different judges; or

☐ D Involve the same patent, trademark or copyright and one of the factors identified above in a b or c also is present

IX. VENUE: (When completing the following information use an additional sheet if necessary)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles (CA)	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Woodland Hills, OH

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles (CA)	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X SIGNATURE OF ATTORNEY (OR PRO PER):

Date September 13, 2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities etc., for certification as providers of services under the program. (42 U.S.C. 1935ff(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))